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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,824	06/15/2001	Masaya Umemura	500.4021400	6606
24956	7590	02/28/2005	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				BORISOV, IGOR N
ART UNIT		PAPER NUMBER		
3629				

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/880,824	UMEMURA ET AL.	
	Examiner	Art Unit	
	Igor Borissov	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 November 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 5,6,8-11 and 14-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 5,6,8-11 and 14-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Response to Amendment

Amendment received on 11/12/2004 is acknowledged and entered. Claim 7 has been canceled. Claims 5, 6 and 8-11 have been amended. New claims 14-16 have been added. Claims 5, 6, 8-11 and 14-16 are currently pending in the application.

Claim Objections.

Claim Objections have been withdrawn due to the applicant's amendment.

Claim Rejections - 35 USC § 102

Claim Rejections under 35 USC § 102 have been withdrawn due to the applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 8-11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita (US 5,397,883) in view of Sehr (US 6,085,976).

Miyashita teaches an automatic ticket-examining apparatus, comprising:

Claim 5. A ticket examiner (C. 3, L. 16); said ticket examiner prohibit (isolates) a passenger from entering or leaving a railroad station (service providing location) (C. 1, L. 18-19);

a controller (41) comprising a central processing unit (42) for controlling the entire apparatus and providing a passenger an access to a railroad in compensation to a payment (C. 4, L. 42-51; C. 1, L. 12);

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a communication means (91) provided on a surface of said ticket-examining apparatus (Fig. 1) and based on non-contact electromagnetic contact scheme with a user's radio commuter pass (C. 3, L. 44-52);

means for collecting information and means for setting a service provided through said communication means based on information stored on said user's radio commuter pass (C. 5, L. 1-9);

means for modulating and demodulating a signal for presenting data on a display (C. 8, L. 4-10);

person sensing means (C. 5, L. 4);

means for recognizing based on sensing the person and the radio commuter pass that said person exists at said ticket examiner (C. 3, L. 53-64).

Miyashita does not teach means for decrypting said collected information, said means connected to a financial institution. Also, Miyashita does not specifically teach ticket-issuing means.

Sehr teaches a travel system utilizing multi-application passenger card, including a passenger station that controls access to a railroad, said station is equipped with smart card reader/writer units; a travel center that provides the computerized means for the selection, payment and issuance of passenger cards, said travel center coupled to said station; and Bank/Financial Institution that facilitates the electronic process between the passenger and travel centers (service provider), said Bank/Financial Institution is coupled to said travel center (Fig. 2; C. 7, L. 25-57); and Encrypt/Decrypt means for encrypting or decrypting uploaded or downloaded card-related data (C. 19, L. 6-12). Furthermore, Sehr teaches ticket-issuing means (C. 7, L. 31).

It would have been obvious to one having ordinary skill in the art to modify Miyashita to include means for decrypting said collected information, as disclosed in Sehr, because it would advantageously provide security for the system by preventing possible financial fraud. And it would have been obvious to one having ordinary skill in the art to modify Miyashita to include ticket-issuing means, as disclosed in Sehr, because it would be convenient for the passenger to obtain a new ticket at the gate if a passenger's old ticket is unacceptable.

Claim 6. Sehr teaches ticket-issuing means (C. 7, L. 31), wherein user's medium is referred to upon exiting of said user at the passenger station (C. 23, L. 42-46). The motivation to combine Miyashita with Sehr would be to conveniently allow the passenger to obtain a new ticket at the gate if a passenger's old ticket is unacceptable.

Claim 8. Miyashita teaches said ticket examiner, including a person sensor (with a long distance service area) (C. 5, L. 4), and an antenna disposed on a surface of said ticket examiner (C. 3, L. 44-52).

Claim 9. Miyashita teaches said an antenna disposed on a surface of said ticket examiner approached by the passenger (C. 3, L. 44-52);

wherein said person sensor appears to detect passengers coming out of a service area (railroad station) and passengers coming to the service area (from service-free area) (said ticket examiner prohibits or allows the passenger from entering or leaving the station (C. 1, L. 18-19);

wherein said ticket examiner communicates with a passenger card present in both service and service-free areas, and refers to information stored in said card through said antenna (C. 6, L. 41-45);

wherein said ticket examiner tries to communicate with the passenger card using a person sensor to detect arrival of the passenger (C. 5, L. 4); and

wherein if presence of the passenger is detected, said ticket examiner successively refers to information stored in said passenger card through said antenna (C. 6, L. 41-45).

Claim 10. Said ticket examiner included a gate for blocking the passenger from entering or leaving the station when the ticket is found to be non-valid (Miyashita; C. 1, L. 15-19).

Claim 11. Sehr teaches Encrypt/Decrypt means for encrypting or decrypting uploaded or downloaded card-related data (C. 19, L. 6-12). The motivation to combine Miyashita with Sehr would be to advantageously provide security for the system by preventing possible financial fraud.

Claim 14. Miyashita teaches means for judging information stored in the passenger card (C. 7, L. 61-65) and gates for blocking the passenger from leaving the station if said means for judging indicates abnormality with said information (C. 1, L. 18-19). Sehr teaches means for checking validity of information stored on the passenger card, wherein said information includes position information (C. 23, L. 42-46). The motivation to combine Miyashita with Sehr would be to advantageously provide security for the system by preventing possible fraudulent use of said card.

Claim 15. Said system, wherein, upon establishing communication with a user medium, the ticket examiner transmits information on getting on and off to the medium (C. 7, L. 63; C. 8, L. 11-16). Furthermore, language as to: "*wherein, upon establishing communication with a user medium by said communication means, the ticket examiner transmits identification information provided for each user and a synchronizing clock to the user medium*" appears to be directed to method steps. So as claimed invention is directed to a *system*, said language is given no patentable weight.

MPEP 2106 (II) (C) states: "Language that suggests or makes optional but does not require steps to be performed or *does not limit a claim to a particular structure* does not limit the scope of a claim or claim limitation."

Furthermore, Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim: *Ex parte Masham*; 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claim 15 are disclosed in Miyashita in view of Sehr as described herein. Also, as described, the limitations of claim 15 do not distinguish the claimed apparatus from the prior art.

Claim 16. Said system, wherein said communicating means transmits a request for communication to a user medium using an antenna when a proximity detector detects presence of a passenger (C. 5, L. 1-9, 28).

Response to Arguments

Applicant's arguments in respect to claims 5, 6, 8-11 and 14-16 were fully considered but are moot in view of new ground of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649 before April 13, 2005, and (571) 272-6801 after that date.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist before April 13, 2005, whose telephone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308-2702 before April 13, 2005, and (571) 272-6812 after that date.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

(703) 872-9306 [Official communications; including After Final communications labeled "Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

Igor Borissov
Patent Examiner
Art Unit 3629



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02/16/2005